

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2001-249-E - ORDER NO. 2002-28
JANUARY 17, 2002

IN RE: Gary Weaver,)	ORDER DENYING
Complainant,)	PETITION
)	
-vs.-)	
)	
Carolina Power & Light Company,)	
)	
Respondent.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for Rehearing or Reconsideration of Commission Order No. 2001-1095 filed by Gary Weaver in this Complaint case. For the reasons stated below, the Petition is denied.

First, Weaver asks that the Commission excuse or delay compliance with Commission Order No. 2001-1095 “beyond the automatic stay of ten days” until issuance of a new Order. Weaver cites Rule 62 SCRCP for the proposition that a ten-day automatic stay of the Order is applicable. We disagree. Rule 62(f) states that the “ten day automatic stay” provisions of Rule 62 are cumulative to and do not supersede the right of any party to a stay of execution accorded by statute. In our case, S.C. Code Ann. Section 58-27-210 (1976) provides for a stay of the Commission’s electric orders under certain circumstances. The language states “The Order shall take effect and become operative twenty days after service thereof, unless otherwise provided, and shall continue in

force...(emphasis added).” Paragraph 21 of Commission Order No. 2001-1095 states that, “this Order shall remain in full force and effect until further Order of the Commission.” We hold that this language constitutes the unless otherwise provided language in Section 58-27-2120. We hold that Paragraph 21 in essence states that Order No. 2001-1095 takes effect upon issuance by the Commission. Weaver’s first request must therefore be denied, since Section 58-27-2120 provides that the Commission can specify when it wants its Order to go into effect, and we did so in Order No. 2001-1095.

Next, Weaver requests that this Commission order Carolina Power & Light (CP&L or the Company) to cease and desist from threats of disconnect. It does not appear to this Commission from the record that CP&L is in violation of Commission Regulation 103-343, which outlines insufficient reasons for denying service to a customer. Further, we found in Order No. 2001-1095 that CP&L was in compliance with Commission Regulations regarding the “equal payment plan,” notices of disconnection, deferred payment plan arrangements, and customer billing. Therefore, this request is denied.

Further, Weaver asks that this Commission order its Staff and CP&L to provide for the record information discussed in his Petition. Weaver claims that this information is needed for the record and was not objected to at the hearing on November 27, 2001. This request must also be denied. The Chairman of the Commission closed the record at the hearing on November 27, 2001, and no late-filed exhibits were requested to be filed after the close of the hearing.

Next, Weaver requests that the Commission order the submittal of Briefs as provided for in Regulation 103-875. We deny this request. The submittal of Briefs, as per

the regulation, is in the discretion of the Presiding officer at the hearing, and the Chairman did not order the submittal of Briefs in this case, nor did any party request to submit a Brief. Further, in any event, we do not believe that Briefs would be useful to us in considering the issues in this case.

In addition, Weaver petitions this Commission for a rehearing or reconsideration of Order No. 2001-1095 “as discussed hereinabove on the basis of the requested brief.” This Commission made several specific findings in Order No. 2001-1095 regarding Weaver’s credibility and his ability to pay. Further, this Commission made several findings regarding CP&L’s compliance with our regulations. We based our decision on the record as a whole, and we believe that our decisions in Order No. 2001-1095 are supported by the record and the law.

Finally, Weaver alleges that this Commission made an error in dismissing his complaint “with prejudice.” Order No. 2001-1095 fully set our reasoning in this matter. Our Order clearly shows Weaver’s complete failure to prove his case. We believe that a dismissal with prejudice was appropriate in this case, as Weaver is not entitled to “two bites at the apple.”

In addition, any further relief requested by Weaver in his Petition, but not herein addressed above is denied, based on the record and our findings in Order No. 2001-1095.

Accordingly, the Petition for Rehearing or Reconsideration is denied. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)